

AMENDED IN SENATE MARCH 28, 2007

SENATE BILL

No. 794

Introduced by Senator Maldonado

February 23, 2007

An act to amend Section 65583 of the Government Code, relating to local planning; to add and repeal Sections 17053.41 and 23641 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 794, as amended, Maldonado. ~~Housing elements: mandatory requirements.~~ *Personal income and corporation taxes: credit: environmental building expenses.*

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, pursuant to legislative findings and declarations, authorize a credit against those taxes for each taxable year beginning on or after January 1, 2008, and before January 1, 2016, in an amount equal to 5% of the amount paid or incurred by a taxpayer during the taxable year for environmental building expenses, as defined. This bill would, for purposes of this credit, require certain certifications by the California Environmental Protection Agency of environmentally sound or energy efficient fixtures.

This bill would limit the total annual amount of this credit to \$25,000,000 for each calendar year, and would, for any calendar year for which total allowable credit claims exceed that amount, require the Tax Credit Allocation Committee in the Treasurer's office to allocate credit amounts on the basis of specified environmental benefits. This bill would require the California Environmental Protection Agency, no

later than January 31, 2015, to issue a written report to each house of the Legislature with respect to the credit.

This bill would take effect immediately as a tax levy.

~~The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Buildings have a tremendous impact upon the environment.*
- 4 (b) *Beyond altering landscapes and habitats, buildings in the*
- 5 *United States consume more than 30 percent of our total energy*
- 6 *and 60 percent of our electricity, utilize billions of gallons of water*
- 7 *daily, and typically generate more than two pounds of solid waste*
- 8 *per square foot of floor space.*
- 9 (c) *Through green design practices, the utilization of proven*
- 10 *environmental technologies, practices, standards, and policies,*
- 11 *the environmental burden of buildings can be reduced.*
- 12 (d) *It is the intent of the Legislature to do all of the following*
- 13 *to encourage and promote the development of green buildings as*
- 14 *described and informed by the United States Green Building*
- 15 *Council's Leadership in Energy and Environmental Design (LEED)*
- 16 *Green Building Rating System:*
- 17 (1) *Promote better environmental standards in the state for the*
- 18 *construction, rehabilitation, and maintenance of buildings.*
- 19 (2) *Improve energy efficiency and increase the generation of*
- 20 *energy from renewable and clean energy technologies.*
- 21 (3) *Increase the demand for environmentally preferable building*
- 22 *materials, finishes, and furnishings.*

1 (4) *Improve the environment by decreasing the discharge of*
2 *pollutants from buildings.*

3 (5) *Create awareness on the part of the industry and the public*
4 *of new technologies that can improve the quality of life for building*
5 *occupants.*

6 (6) *Improve the health and quality of building occupants.*

7 (7) *Achieve the goals specified in paragraphs (1) to (6),*
8 *inclusive, by means that include, among others, an allocated tax*
9 *credit, under both the Personal Income Tax Law (Part 10*
10 *(commencing with Section 17001) of Division 2 of the Revenue*
11 *and Taxation Code) and the Corporation Tax Law (Part 11*
12 *(commencing with Section 23001) of Division 2 of the Revenue*
13 *and Taxation Code), for expenses paid or incurred by taxpayers*
14 *with respect to environmentally sound buildings.*

15 *SEC. 2. Section 17053.41 is added to the Revenue and Taxation*
16 *Code, to read:*

17 17053.41. (a) *For each taxable year beginning on or after*
18 *January 1, 2008, and before January 1, 2016, there shall be*
19 *allowed as a credit against the “net tax,” as defined in Section*
20 *17039, an amount equal to 5 percent of the amount of*
21 *environmental building expenses paid or incurred by the taxpayer*
22 *during the taxable year.*

23 (b) *For purposes of this section, the following definitions apply:*

24 (1) *“Environmental building costs” means costs paid or*
25 *incurred by a taxpayer for the construction, repair, maintenance,*
26 *rehabilitation, or improvement of a commercial or multifamily*
27 *residential structure or structures located within California,*
28 *totaling at least 25,000 square feet, that are paid or incurred for*
29 *any of the following:*

30 (A) *A fuel cell or photovoltaic module to provide electrical*
31 *power for a structure or structures.*

32 (B) *A chiller used in a cooling system for a structure or*
33 *structures that uses nonozone depleting refrigerant and meets or*
34 *exceeds state energy efficiency standards.*

35 (C) *Any fixture, including, but not limited to, a device, material,*
36 *or mechanical system, that is certified by the California*
37 *Environmental Protection Agency as being environmentally sound*
38 *or energy efficient.*

1 (2) “Fuel cell” means a device that produces electricity directly
2 from hydrogen or hydrocarbon fuel through a noncombustible
3 electrochemical process.

4 (3) “Photovoltaic module” means a module that produces
5 electricity from direct sunlight.

6 (4) “Nonozone depleting refrigerant” means a refrigerant, for
7 use in an air-conditioning system, that does not contain chlorine
8 and does not adversely affect the Earth’s ozone layer.

9 (5) “Environmentally sound” means that a fixture, as described
10 in subparagraph (C) of paragraph (1), has net negative impacts
11 upon the environment that are less than other fixtures commonly
12 used for the same purpose in a structure.

13 (6) “Energy efficient” means that a fixture, as described in
14 subparagraph (C) of paragraph (1), reduces the consumption of
15 heat, process heat, space heating, water heating, steam, space
16 cooling, refrigeration, mechanical energy, or electricity, and
17 exceeds applicable energy efficiency standards.

18 (7) “Material” means ____.

19 (c) The California Environmental Protection Agency shall
20 complete those certifications described in subdivision (b) no later
21 than July 1, 2008, and shall annually update the list of those
22 certifications by each July 1 thereafter. The Environmental
23 Protection Agency may delegate authority for the certification of
24 any type of fixture to any of its member boards or departments,
25 the California Energy Commission, the Department of Water
26 Resources, or the State Department of Health Services.

27 (d) The total amount of credits allowed under this section and
28 Section 23641 may not exceed twenty-five million dollars
29 (\$25,000,000) for any calendar year. If, for any calendar year,
30 the dollar amount of credits validly claimed under this section and
31 Section 23641 exceeds twenty-five million dollars (\$25,000,000),
32 credits in a total amount no greater than that limit shall be
33 allocated among valid claimants by the California Tax Credit
34 Allocation Committee to those claims with respect to environmental
35 building costs that, as determined by the committee, will result in
36 the greatest proportionate increases in environmental soundness
37 and energy efficiency. The California Tax Credit Allocation
38 Committee shall, in the manner required by Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3 of Title
40 2 of the Government Code, promulgate regulations governing the

1 *implementation of the committee's allocation duties set forth in*
2 *this subdivision.*

3 *(e) In the case where the credit allowed by this section exceeds*
4 *the "net tax," the excess may be carried over to reduce the "net*
5 *tax" in the following year, and succeeding seven years if necessary,*
6 *until the credit is exhausted.*

7 *(f) The California Environmental Protection Agency shall, not*
8 *later than January 31, 2015, issue a written report to each house*
9 *of the Legislature with respect to the implementation of the tax*
10 *credit allowed by this section. The report shall recommend the*
11 *retention, extension, or repeal of this section.*

12 *(g) This section shall remain in effect only until December 1,*
13 *2016, and as of that date is repealed.*

14 *SEC. 3. Section 23641 is added to the Revenue and Taxation*
15 *Code, to read:*

16 *23641. (a) For each taxable year beginning on or after*
17 *January 1, 2008, and before January 1, 2016, there shall be*
18 *allowed as a credit against the "tax," as defined in Section 23036,*
19 *an amount equal to 5 percent of the amount of environmental*
20 *building expenses paid or incurred by the taxpayer during the*
21 *taxable year.*

22 *(b) For purposes of this section, the following definitions apply:*

23 *(1) "Environmental building costs" means costs paid or*
24 *incurred by a taxpayer for the construction, repair, maintenance,*
25 *rehabilitation, or improvement of a commercial or multifamily*
26 *residential structure or structures located within California,*
27 *totaling at least 25,000 square feet, that are paid or incurred for*
28 *any of the following:*

29 *(A) A fuel cell or photovoltaic module to provide electrical*
30 *power for a structure or structures.*

31 *(B) A chiller used in a cooling system for a structure or*
32 *structures that uses nonozone depleting refrigerant and meets or*
33 *exceeds state energy efficiency standards.*

34 *(C) Any fixture, including, but not limited to, a device, material,*
35 *or mechanical system, that is certified by the California*
36 *Environmental Protection Agency as being environmentally sound*
37 *or energy efficient.*

38 *(2) "Fuel cell" means a device that produces electricity directly*
39 *from hydrogen or hydrocarbon fuel through a noncombustible*
40 *electrochemical process.*

1 (3) “Photovoltaic module” means a module that produces
2 electricity from direct sunlight.

3 (4) “Nonozone depleting refrigerant” means a refrigerant, for
4 use in an air-conditioning system, that does not contain chlorine
5 and does not adversely affect the Earth’s ozone layer.

6 (5) “Environmentally sound” means that a fixture, as described
7 in subparagraph (C) of paragraph (1), has negative impacts upon
8 the environment that are less than any other fixture commonly
9 used for the same purpose in a structure.

10 (6) “Energy efficient” means that a fixture, as described in
11 subparagraph (C) of paragraph (1), reduces the consumption of
12 heat, process heat, space heating, water heating, steam, space
13 cooling, refrigeration, mechanical energy, or electricity.

14 (7) “Material” means ____.

15 (c) The California Environmental Protection Agency shall
16 complete those certifications described in subdivision (b) no later
17 than July 1, 2008, and shall annually update the list of those
18 certifications by each July 1 thereafter. The Environmental
19 Protection Agency may delegate authority for the certification of
20 any type of fixture to any of its member boards or departments,
21 the California Energy Commission, the Department of Water
22 Resources, or the State Department of Health Services.

23 (d) The total amount of credits allowed under this section and
24 Section 17053.41 may not exceed twenty-five million dollars
25 (\$25,000,000) for any calendar year. If, for any calendar year,
26 the dollar amount of credits validly claimed under this section and
27 Section 17053.41 exceeds twenty-five million dollars (\$25,000,000),
28 credits in a total amount no greater than that limit shall be
29 allocated among valid claimants by the California Tax Credit
30 Allocation Committee to those claims with respect to environmental
31 building costs that, as determined by the committee, will result in
32 the greatest proportionate increases in environmental soundness
33 and energy efficiency. The California Tax Credit Allocation
34 Committee shall, in the manner required by Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2 of the Government Code, promulgate regulations governing the
37 implementation of the committee’s allocation duties set forth in
38 this subdivision.

39 (e) In the case where the credit allowed by this section exceeds
40 the “tax,” the excess may be carried over to reduce the “tax” in

1 *the following year, and succeeding seven years if necessary, until*
2 *the credit is exhausted.*

3 *(f) The California Environmental Protection Agency shall, not*
4 *later than January 31, 2015, issue a written report to each house*
5 *of the Legislature with respect to the implementation of the tax*
6 *credit allowed by this section. The report shall recommend the*
7 *retention, extension, or repeal of this section.*

8 *(g) This section shall remain in effect only until December 1,*
9 *2016, and as of that date is repealed.*

10 *SEC. 4. This act provides for a tax levy within the meaning of*
11 *Article IV of the Constitution and shall go into immediate effect.*
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14 **All matter omitted in this version of the bill**
15 **appears in the bill as introduced in the**
16 **Senate, February, 23 2007 (JR11)**
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